

REMARKS

Claims 1-9 are at issue. Claims 1-9 were rejected as unpatentable over Yilmaz et al. (U.S. Pat. 5,751,054) in view of Imoto (U.S. Pat. 5,920,781). The applicant respectfully traverses the rejections. Reconsideration is requested.

The applicant submits that claim 1 is not obvious over Yilmaz et al. in view of Imoto. The action does not make out a *prima facie* case of obviousness. Neither Yilmaz et al. nor Imoto teaches or suggests all of the limitations of independent claim 1. In particular, claim 1 recites that the gate electrodes of the DMOS element and the MOS element have different profiles. Although Yilmaz et al. disclose a DMOS transistor and an NMOS transistor formed on a substrate, Yilmaz et al. do not disclose that the DMOS transistor includes a gate electrode having slanted side walls, as noted in the action (3/10/2004 action, p. 3). In fact, contrary to the action, Yilmaz et al. do not disclose any side wall profiles for the gate electrodes of either the DMOS transistor or the NMOS transistor (col. 17, ll. 64-67; col. 20, ll. 15-17). Yilmaz et al. therefore does not disclose a MOS element including a gate electrode having side walls with a different profile than the slanted side walls of a gate electrode of a DMOS.

Likewise, although Imoto discloses that a polysilicon gate electrode (13) of an N-channel MOS transistor may include tapered side parts (15, 16) (col. 2, ll. 57-64), Imoto does not disclose a MOS element formed on the same substrate as a DMOS element, much less a gate electrode for the MOS element. Therefore, contrary to the action, Imoto does not disclose a MOS element including a gate electrode having side walls with a different profile than the slanted side walls of a gate electrode of a DMOS. The action's rejections of claim 1 and claims 2-9 dependent thereon are therefore improper for failing to cite references that teach or suggest all of the claims limitations of independent claim 1, whether taken individually or in combination. It is clear that a *prima facie* case of obviousness cannot be established where all the limitations of a claimed combination are not taught or suggested by the prior art. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See also MPEP 2143.03.

Accordingly, the applicant respectfully submits that all pending claims are patentable over the art of record and should be allowed. In light of the foregoing, the prompt issuance of a notice of allowance is respectfully solicited.

Should the examiner have any questions, the examiner is respectfully invited to telephone the undersigned.

Respectfully submitted,

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